

**STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL**

STANDARD OPERATING PROCEDURE

VI. CONVICTIONS

A. Purpose

The purpose of this SOP is to provide guidelines and required procedures for processing applications when the applicant indicates a conviction for a misdemeanor or a felony.

A conviction may result in an applicant being disqualified for an eligible list. In order to maintain fair and consistent treatment of applicants, it is essential to maintain consistency in the way that applicants with convictions are treated.

B. Scope

All applications are reviewed to determine if the applicant has been convicted of a misdemeanor within five years or a felony at any time.

C. Authority

Personnel Rule 2 AAC 07.065(8)(b) provides that an applicant for employment must report a misdemeanor conviction that occurred within the preceding five years and a felony conviction regardless of the date it occurred.

D. Procedure

The State Employment Application form (02-250) requests information on any misdemeanor within the preceding five years or any felony for which the applicant has been convicted. Applicants are asked to indicate "yes" or "no" to that question. If the answer is yes to either question, the applicant is directed to provide an explanation on a separate sheet and attach it to the application. If convicted of a felony, the applicant is also to include a copy of the judgement. Responses should be handled in the following manner:

1. If either question has not been answered, the Certifications Supervisor must request an answer from the applicant. (Use AKATS letter E220.)
2. If the responses are "no", the application will continue to be processed in the usual manner.
3. If either response is "yes", the Certifications Supervisor must review the following information from the applicant:

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DIVISION OF PERSONNEL**

STANDARD OPERATING PROCEDURE

- a. an explanation of the conviction and the dates involved for a misdemeanor, or
- b. a copy of the Judgment for a felony conviction.

The information should be included with each application. If it is missing, first check with the records unit to determine if it has been attached to other applications. If it has not, it must be requested from the applicant.

- 4. Applications will be reviewed on an individual basis for the nature and seriousness of the offense, the kind of position for which applying and the requirements of the position, the circumstances under which the offense occurred, the amount of time which has passed since commission of the offense, the age of the applicant at the time of the offense, whether the offense was an isolated or repeated violation, and any aggravating, mitigating or other facts of circumstances which may have a bearing on the suitability of the applicant for employment in the position sought. For example, a single DWI or OMVI (drunk driving) conviction would not require review of further documentation while multiple convictions might. This will be determined by reviewing the Judgment. Further information, as necessary, may be available in Pre-Sentence Reports, and Orders of Probation.

The review also includes consultation with the potential hiring agency(ies) regarding the suitability of employment based on specific convictions.

The person responsible for this review is the Certifications Supervisor. Departments with delegated examining authority are to bring conviction issues to the Certification Supervisor before routing an application to an examiner.

- a. A Pre-Sentence Report provides background information and more detail on the case than the Judgment. The Judgment indicates the court's findings and any conditions imposed on the defendant. Petitions and orders regarding the revocation of probation may detail problems the defendant has in complying with the terms of the Judgment.
- b. Specific recommendations for appropriateness of employment

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STANDARD OPERATING PROCEDURE

for individuals currently serving a sentence in an institution or who are on probation can be requested from the institutional counselor or the probation officer assigned the case.

- c. Additional information may be requested of the applicant should information contained in the Judgment lead to such a need. For example, for a conviction relevant to the job class applied for, should the Judgment require the completion of a rehabilitation program, the applicant may be required to provide proof the program has been successfully completed or that the applicant has, at the date of examination, complied with all of the program requirements.
- d. For an individual who have been given a Suspended Imposition of Sentence (SIS) and who has completed all terms of probation, disregard the existence of the conviction.

In considering whether the conviction should preclude an applicant from applying for a specific job class, it must be determined if the job class applied for relates to the nature of the conviction. For example, does the job class require that employees carry firearms, account for monies or property, or work closely with children? The time period of restriction of applications by an applicant for a felony conviction will not normally exceed five years from the date of conviction or the completion of sentence if longer than five years unless a subsequent conviction occurs.

There are a limited number of job classes which always exclude convicted felons from applying and have limitations for applicants convicted of a misdemeanor. These include probation, parole, and correctional officers (see 13 AAC 85.210(b)(1) and (2)) and police officers (see 13 AAC 85.010(b)(1) and (2)).

If it is determined that the applicant should not be permitted to apply for specific job classes, a letter must be sent advising the applicant of the job classes for which the applicant is refused examination. A copy of the letter and the application is routed to log-in. In all cases a copy of the letter is to be sent to all departments with examining delegation.

- 5. Log-in updates the application record, entering "13" for Step Done, and inactivates the job class noted in the letter with reason 99. The application and copy of the letter are routed to the Records Unit for filing.

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